

MISSOURI COURT OF APPEALS WESTERN DISTRICT

DOROTHY J. and BEVERLY A. SODERHOLM,

Appellant-Respondents,

v.

DUANE L. and MARTHA J. NAUMAN,

Respondent-Appellants.

WD74925 Consolidated with WD74945

Date: June 4, 2013

Appeal from:
Holt County Circuit Court
The Honorable Roger M. Prokes, Judge

Appellate Judges:
Division Two: Karen King Mitchell, Presiding Judge, Thomas H. Newton and Lisa White Hardwick, Judges

Attorneys:
Leroy Tieman, Joffrey Lawyer, Keith Schieber, Arnold Day, for Respondent-Appellant.
Robert Sundell for Respondent-Appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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v.

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Before Division Two: Karen King Mitchell, Presiding Judge,
Thomas H. Newton and Lisa White Hardwick, Judges

Duane L. Nauman and Martha A. Nauman (the "Naumans") appeal from the judgment of the Holt County Circuit Court quieting title to a disputed parcel of property in favor of Dorothy J. Soderholm and Beverly A. Soderholm (the "Soderholms"), and granting the Soderholms a prescriptive easement across the Naumans's land for purposes of agricultural ingress and egress. The Naumans contend the circuit court erred in denying their counterclaim that they had acquired title to the disputed parcel by adverse possession. The Naumans also assert the court erred in finding that the Soderholms acquired an easement by prescription or, if in the alternative an easement had been acquired, in finding that the easement had not been extinguished by abandonment.

AFFIRMED IN PART, REVERSED AND REMANDED IN PART.

Division Two Holds:

(1) In its judgment, the circuit court did not articulate its entire basis for ruling against the Naumans on their adverse possession counterclaim. While the court was not required to state its entire reasoning, the only bases articulated by the court are unsupported by the evidence. Consequently, we are unable to discern whether the court's errors identified in our opinion entitle the Naumans to relief. Accordingly, we reverse and remand the Naumans's adverse possession counterclaim against the Soderholms for further findings.

(2) Viewed in the light most favorable to the judgment, sufficient evidence supported the court's determination that the Soderholms had acquired an easement by prescription across the Nauman Tract.

(3) The court did not err in failing to find the prescriptive easement had been abandoned because the Naumans did not establish the required showing of an intent to abandon.

Opinion by: Lisa White Hardwick, Judge

June 4, 2013

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